

Dear FOIA Officer:

On November 2, 2021, the U.S. Environmental Protection Agency (EPA) EPA announced a proposed set of methane-emissions regulations for the oil and gas industry (Docket ID No. EPA-HQ-OAR-2021-0317). This proposal's documentation repeatedly cites a measure of methane's global warming potential (GWP) over 100 years. The latest scientific research suggests that policy-makers should use shorter-term measures of greenhouse gases' contributions to climate change.¹ EPA itself acknowledges that during preliminary public outreach regarding this proposal, "stakeholders called on the EPA to use the 20-year GWP for methane, instead of the 100-year value the agency uses."²

Pursuant to the Freedom of Information Act, 5 U.S.C. 552, as amended, Public Employees for Environmental Responsibility (PEER), requests information from EPA regarding its decision to embrace the 100-year GWP, and reject the 20-year GWP in its Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review.

Specifically, PEER requests the following documentation related to EPA's use of the 100-year GWP to prepare the methane regulations in Docket ID No. EPA-HQ-OAR-2021-0317.

- 1) All records regarding the stakeholder suggestion, noted on page 131 of EPA's draft Standards of Performance, that EPA adopt a 20-year Global Warming Potential in preparing this proposal.
- 2) All records regarding EPA's decision to apply the 100-year Global Warming Potential and to reject the 20-year GWP in this proposal.

Helpful keywords for this search should include "GWP," "global warming potential," and "methane." The earliest date responsive records would have been generated was January 20, 2021.

Custodians for these records should include the following persons and offices:

¹ See Timothy M. Lenton et al, *Climate Tipping Points – Too Risky to Bet Against*, 575 NATURE 592 (2019) (presenting recent findings that the climate is due to reach several "tipping points" in a matter of decades, not centuries).

² Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review, Docket No. EPA-HQ-OAR-2021-0317 (Nov. 2, 2021) (to be codified in 40 C.F.R. pt. 60) (p. 131 of PDF available here: https://www.epa.gov/system/files/documents/2021-11/san-8510-ong-climate-review-proposal-frn-2021-11_1.pdf).

1. Tomás Carbonell, Deputy Assistant Administrator for Stationary Sources, EPA Office of Air and Radiation
2. David Cozzie, Deputy Director, Sector Policies and Programs Division
3. Joseph Goffman, Principal Deputy Assistant Administrator, EPA Office of Air and Radiation
4. Health and Environmental Impacts Division, Office of Air Quality Planning and Standards

Responsive records should include:

1. Electronic messages (including email, texts, chats, and instant messaging via Google, iMessage, WhatsApp, Facebook, Slack, Microsoft Teams, Skype, and any similar services) stored on any desktop, laptop, tablet, server, commercial document sharing service (Microsoft Teams or OneDrive)
2. Any and all attachments or linked materials if they are in the agency's possession or control.

For electronic records, please provide all records in their native file formats (i.e. not converted to PDF) with all metadata included, and for records such as emails which have files embedded or attached, please provide all attachments in their native formats. For instant messages, plain text is acceptable consistent with guidance issued by the National Archives and Records Administration.¹

For any documents or portions of documents that you block release due to specific exemption(s) from the requirements of the Freedom of Information Act, please provide an index itemizing and describing the documents or portions of documents withheld. The index should, pursuant to the holding of Vaughn v. Rosen (484 F.2d 820 [D.C. Cir. 1973] cert. denied, 415 U.S. 977 [1974]), provide a detailed justification for claiming a particular exemption that explains why each such exemption applies to the document or portion of a document withheld.

Fee Waiver Request

PEER requests that all fees be waived because “disclosure of the information is in the public interest . . . and is not primarily in the commercial interest of the requestor” (5 U.S.C. 552 (a) (4)(A)). Disclosure of these records is in the public interest for the following reasons:

1. *The records concern the operations or activities of the Government.*

The FOIA request is, by its terms, limited to identifiable activities of EPA employees and divisions with regards to this specific rule-making process and thus concerns operations or activities of the Government.

2. *The disclosure of the requested records is likely to contribute to public understanding of these operations or activities.*

If the public sees the requested documents and communications, they will be better able to understand why EPA grounded its proposed methane regulations in a 100-year, rather than 20-year, GWP, and how this decision shaped its proposed Standards of Performance. As such, it captures the material which best enhances public understanding of the merits of EPA's proposed methane regulations.

3. The release of these requested records will contribute significantly to public understanding of the governmental activities.

The nature of the information should allow the public to understand one of the underpinnings of EPA's proposed methane regulations for the oil and gas industry. EPA states that these regulations are integral to its larger efforts to fight climate change. However, Earth's climate is projected to reach several "tipping points" in decades, rather than centuries. Regulations can only stave off those tipping points if they account for greenhouse gases' short-term impacts. Therefore, EPA's decision to ground its methane regulations in a 100-year warming potential could reduce their climate impact. These rules and other government efforts to fight climate change are a topic of major public interest. Therefore, the records will be of interest to a broad portion of the public and are likely to improve their understanding of the governmental activities at issue.

PEER intends to provide the requested information to members of Congress and its relevant committees. We also intend to disseminate it to the general public through —

- Release to the news media;
- Posting on the PEER web page which draws between 1,000 and 10,000 viewers per day; and
- Publication in the PEER newsletter that has a circulation of approximately 20,000, including 1,500 environmental journalists.

Through these methods, PEER generates an average of 1.5 mainstream news articles per day. Moreover, extensive media coverage of EPA's regulation of greenhouse gases underscores the broad public interest in this material.

4. Disclosure would not serve a commercial interest of the requestor.

Disclosure is in no way connected with any commercial interest of the requestors in that PEER is a nonprofit, nonpartisan public interest organization concerned with upholding the public trust through responsible management of our nation's resources and with supporting professional integrity within public land management and pollution control agencies. To that end, PEER is designated as a tax-exempt organization under section 501(c)(3) of the Internal Revenue code.

If you have any questions about this FOIA request, please contact me at (202) 265-PEER. I look forward to receiving the agency's final response within 20 working days.

Cordially,

Tim Whitehouse, Executive Director

Public Employees for Environmental Responsibility